REMARKS

The Examiner objected to claims 42 and 44, noting that "at least two parameter" should be amended to "at least two parameters." Applicant amended the claims accordingly.

The Examiner rejected claims 1, 4, 10-11, 14, 17, 20, 21, 23, 26-29, 31-39, and 41 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,580,424 to Ravishankar *et al.* in view of U.S. Patent Publication No. 2002/0127995 to Faccinn *et al.*, and rejected claims 15, 30, and 40 under 35 U.S.C. § 103(a) as unpatentable over Ravishankar in view of Faccinn and further in view of U.S. Patent No. 6,631,122 to Arunachalam *et al.* Additionally, the Examiner rejected claims 42-44 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent Publication No. 2002/0068545 to Oyama *et al.* in view of U.S. Patent No. 6,434,380 to Anderson *et al.*

Applicant amended independent claim to clarify that the negotiation information, based on which the managing node selects a parameter for a new traffic flow, is negotiation information determined at the resource node, and to further recite that the cost information comprising part of the negotiation information is determined at the resource node based, at least in part on current data flows at the resource node. Support for the amendments is provided, for example, at page 2, paragraphs 25-27 of the published application (US 2005/0255850). Applicant similarly amended independent claims 17, 20-21, 42 and 44. Applicant also amended independent claims 17 and 20 to correct a couple of minor antecedent problems.

Applicant's independent claim 1 recites "said managing node selecting a parameter for a new traffic flow based on said negotiation information determined at the resource node, wherein said negotiation information comprises cost, the cost determined at the resource node based, at least in part, on current data flows at the resource node." Thus, the cost information, which the managing node uses to select a parameter for a new traffic flow (e.g., traffic class), includes cost information which is determined dynamically at the resource node based, for example, on current flows at

the resource node (e.g., the volume of data flows handled at the resource node may affect, for example, the cost of establishing a new flow at the resource node):

> [0027] The resource control apparatus 30 uses information about the actual flows to be served. In other words, the calculated target bit rate, cost and traffic class take into account the Radio Access Bearers currently in progress as well as the new radio access bearer to be initiated. The result of the calculations carried out by the resource control apparatus 30 provides the triplet of information which is referred to as the quality of service triplet.
>
> (US 2005/0255850, page 2, paragraph 27)

In rejecting claim 1, for example, the Examiner admitted that "Ravishankar '424 discloses establishing communications session based on negotiated QoS parameters above with the exception of claimed features: **Regarding claim 1**, wherein said negotiation information comprises cost" (Office Action, page 6). It follows, therefore, that Ravishankar also fails to disclose at least the features of "said managing node selecting a parameter for a new traffic flow based on said negotiation information determined at the resource node, wherein said negotiation information comprises cost, the cost determined at the resource node based, at least in part, on current data flows at the resource node," as recited in claim 1.

The Examiner, however, relied on Faccinn as allegedly disclosing the feature pertaining to the negotiation information comprising cost, and stated: "Faccinn '995 from the same field of endeavor discloses the above claimed features: **Regarding claim 1**, wherein said negotiation information comprises cost (see creation of PDP context by GGSN, paragraphs 0053-0055, PDP context based on call set-up with charging indication, paragraphs 0065, 0056, 0068-0070)" (Office Action, page 6)

Faccinn describes "techniques for charging coordination and other kinds of information coordination, and a common charging identifier for communication networks" (Faccinn, page 1, paragraph 3). In particular, Faccinn explains that when a PDP context is created by the GGSN, the GGSN associates a charging identification parameter with the PDP context (Faccinn, page 2, paragraph 15). An example of the

procedure in which a charging identification parameter is associated with a created PDP context is described in relation to Faccinn's FIG. 4:

> [0068] As illustrated in FIG. 4, a process of sending a charging identification in accordance with the present invention begins at step 400 in which a trigger is forwarded from the TE (Terminal Equipment) to the MT (Mobile Terminal). The trigger may be, e.g., a call set up message including the requested logical channels and characteristics.
>
> [0069] At step 402, an Activate PDP Context Request message is forwarded to the SGSN. In response thereto, in step 404, the SGSN creates a Create PDP Context Request message.
>
> [0070] In step 406, the SGSN sends the Create PDP Context Request to the GGSN. In response to the Create PDP Context Request received from the SGSN, in step 408, the GGSN creates a Create PDP Context Response. In step 410, the GGSN associates the Charging Identification parameter with the PDP context. In step 412, both the Create PDP Context Response and the Charging Identification are then returned to the SGSN in the Create PDP Context Response message.
>
> (Faccinn, page 5, paragraphs 68-70)

Thus, in response to a set up message (e.g., to set up a PDP context), Faccinn's system associates a Create PDP Context Response (and presumably a PDP context), created at the GGSN, with a charging identification parameter (which presumably is just an identifier and does not include cost information *per se*). Faccinn, however, does not describe that cost information, or for that matter, a charging identification parameter is determined at a resource node and sent to a managing node. Faccinn also does not describe that cost information sent to the managing node (e.g., the GGSN) includes cost determined, at least in part, based on current data flows at the resource node.

Accordingly, Faccinn also fails to disclose or suggest at least the features of "said managing node selecting a parameter for a new traffic flow based on said negotiation information determined at the resource node, wherein said negotiation information comprises cost, the cost computed at the resource node based, at least in part, on current data flows at the resource node," as recited in independent claim 1.

Additionally, in rejecting claim 42, which recites features similar to the features recited in claim 1, the Examiner admitted that "Oyama '545 discloses all the claimed limitations, with the exception of claimed features "**Regarding claim 42**, wherein the negotiation information comprises cost information which is determined at the resource node" (Office Action, page 13). It follows, therefore, that Oyama also fails to disclose at least the features of "said managing node selecting a parameter for a new traffic flow based on said negotiation information determined at the resource node, wherein said negotiation information comprises cost, the cost determined at the resource node based, at least in part, on current data flows at the resource node," as recited in claim 1.

The Examiner, however, relied on Anderson as allegedly disclosing the features pertaining to the negotiation information comprising cost, and stated: "However, Anderson '380 from the same field of endeavor discloses the above claimed features: **Regarding claim 42**, wherein the negotiation information comprises cost (see, negotiation of resources based on the user connection request, col. 5, line 48 to col. 6, line 32) which is determined at the resource node (see, resource manager 180 determines resource cost or price for each requested connection, col. 6, line 19-58, see allocation of resources based on the negotiation and resource capabilities, col. 1, line 63, to col. 2, line 5, col. 6, line 41-58" (Office Action, page 14)

Anderson describes "processes of obtaining resources of a wireless telecommunication system in connection with admitting and/or sustaining a call with a mobile user equipment unit (UE)" (Anderson, col. 1, lines 9-12). Anderson's system includes resource managers that operate as follows:

> Basic actions performed by typical resource managers are exemplified in FIG. 3 with reference to example resource managers 180(1) and 180(N). Each resource manager 180 includes a resource allocation procedure 182 and a resource cost calculator 184. The resource allocation procedure 182 quantifies the request for the resource by assigning a number of allocation units to the request, the number assignment being based on the extent to which the resource is requested or required for the prospective no connection with user equipment unit 20. The number of allocation units for the resource is sent to resource cost calculator 184, which (as shown in FIG. 3) determines a resource cost or price tag (188) for the resource by multiplying the number of allocation units for the

resource (186) by the current allocation unit price for the resource (187).

(Anderson, col. 5, lines 18-33)

Thus, Anderson's resources managers appear to perform resource allocation as well as resource cost calculations (i.e., Anderson's resource managers do not appear to send cost information to managing nodes). With respect to the resource cost calculations, the resource manager calculates the costs by multiplying the number of units allocated for a resource request by the current unit price of the resource. Anderson, however, does not describe that the resource manager calculates (or otherwise determines) cost based, at least in part, on the overall resources (or data flows) currently allocated by the resource manager(s).

Accordingly, Anderson too fails to disclose or suggest at least the features of "said managing node selecting a parameter for a new traffic flow based on said negotiation information determined at the resource node, wherein said negotiation information comprises cost, the cost determined at the resource node based, at least in part, on current data flows at the resource node," as recited in claim 1.

Because none of Ravishankar, Faccinn, Oyama, and Anderson discloses or suggests, alone or in combination, at least the features of "said managing node selecting a parameter for a new traffic flow based on said negotiation information determined at the resource node, wherein said negotiation information comprises cost, the cost determined at the resource node based, at least in part, on current data flows at the resource node," Applicant's independent claim 1, and the claims depending from it, are patentable over the cited art.
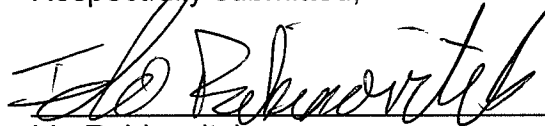
Applicant's independent claims 17, 20-21, 42 and 44 recite "determining negotiation information at a resource node configured to provide access to a wireless connection coupled to the user equipment, the negotiation information comprising cost, the cost determined at the resource node based, at least in part, on current data flows at the resource node," or similar language. For reasons similar to those provided with respect to independent claim 1, Applicant's independent claims 17, 20-21, 42 and 44, and the respective claims depending from them, are patentable over the cited art.

12

CONCLUSION

On the basis of the foregoing amendments, the pending claims are in condition for allowance. It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper.

The Commissioner is hereby authorized to charge the fee and any additional fees that may be due, or credit any overpayment of same, to Deposit Account 50-0311, Reference No. Attorney Docket No. 39700-577N01US/NC16859US. If there are any questions regarding reply, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,

Date: March 16, 2010

Ido Rabinovitch
Reg. No. L0080

Address all written correspondence to
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
One Financial Center
Boston, Massachusetts 02111
Customer No. 64046
Telephone: 617-348-1806
Facsimile: 617-542-2241

4858697v.2

13